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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,006	08/04/2003	David Thompson	F-7443 U-D	5041
24131	7590	06/23/2004	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,006

Applicant(s)

THOMPSON, DAVID

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 4-12-04 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,460,306 to Rudd or U.S. Patent No. 4,827,654 to Roberts.

Referring to claim 1, Rudd and Roberts disclose a fishing rod holder comprising a first pipe section – at 11 of Rudd and – at 12 of Roberts, having an insertion opening, a connection area opposite the insertion opening, a longitudinal axis, and an inner diameter accommodating therein the fishing rod handle through the insertion opening and into the first pipe section along an insertion direction; a second pipe section – at 12 or 13 of Rudd and – at 14 of Roberts, fixedly connected at the connection area of the first pipe section and projecting away from the first pipe section along the longitudinal axis of the first pipe section; and the first pipe section having a slot

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– at 15, 17 of Rudd and – at 26 of Roberts, beginning at the insertion opening and extending in the insertion direction along the first pipe section – see for example figures 1-2 of Rudd and figures 1-3 of Roberts.

Referring to claim 3, Rudd and Roberts disclose the second pipe section – at 12 or 13 of Rudd and – at 14 of Roberts, has an outer pipe section – at the outer surface of – 14 of Rudd and - at 12 or 13 of Roberts, and an inner pipe section – at the inner surface of – 14 of Rudd and – 12 or 13 of Roberts, connected to one another – see for example figures 1-2 of Rudd and figure 1 of Roberts.

Referring to claim 5, Rudd and Roberts disclose the first and second pipe sections – at 12 and 14 of Roberts and – at 12 11 and 13 of Rudd, are integrally formed – see for example figure 1 of Roberts and figures 1-3 of Rudd.

Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudd.

Referring to claim 8, Rudd discloses the slot – at 15, 17, has a width adapted to a width of a bracket attaching the reel to the fishing rod so as to enable an insertion of the bracket beyond the insertion opening and to a given insertion depth into the first pipe section for removably securing the fishing rod within the fishing rod holder – see for example figures 1-7.

Referring to claim 9, Rudd discloses the slot is an L-shaped slot – at 15, 17, having a longitudinal component extending longitudinally from the insertion opening and a transverse component extending transversely away from the longitudinal component in a circumferential direction – see for example figure 3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd or Roberts as applied to claims 1 and 3 above.

Referring to claim 4, Rudd and Roberts do not disclose the outer pipe and inner pipe sections are connected to one another with an adhesive. However, this would have been an obvious matter of design choice to one of ordinary skill in the art, since applicant does not state that using an adhesive solves any particular problem or is done for any particular purpose over other types of fasteners.

Referring to claim 6, Rudd and Roberts do not disclose the first pipe and second pipe sections are connected to one another with glue. However, this would have been an obvious matter of design choice to one of ordinary skill in the art, since applicant does not state that using glue solves any particular problem or is done for any particular purpose over other types of fasteners or adhesives.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd or Roberts as applied to claim 1 above, and further in view of U.S. Patent No. 5,210,971 to Efantis. Rudd and Roberts further disclose the slot – at 15, 17 of Rudd and – proximate 24 of Roberts is

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substantially rectangular. Rudd and Roberts do not disclose the slot widens adjacent the insertion opening. Efantis does disclose a slot – see figure 2, which widens adjacent the insertion opening – see for example figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Rudd or Roberts and add the slot of Efantis, so as to allow for the rod holder to easily receive the fishing rod unimpeded.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to claim 1 above, and further in view of Wilson. Roberts does not disclose the slot has a width adapted to a bracket of a fishing reel. Wilson does disclose the slot – at 16-20, has a width adapted to a width of a bracket attaching the fly fishing reel to the fly fishing rod, so as to enable an insertion of the bracket beyond the insertion opening and to a given insertion depth into the first pipe section for removably securing the fly fishing rod within the fly fishing rod holder – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Roberts and add the slot of Wilson, so as to allow for the fishing rod to be securely held in place during use.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts as applied to claim 1 above, and further in view of Rudd. Roberts does not disclose a L-shaped slot. Rudd does disclose the slot is an L-shaped slot – at 15, 17, having a longitudinal component extending longitudinally from the insertion opening and a transverse component extending transversely away from the longitudinal component in a circumferential direction – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Roberts and add the L-shaped slot of Rudd, so as to more securely hold the rod and reel in place during use.

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Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd or Roberts as applied to claim 1 above, and further in view of U.S. Patent No. 4,485,579 to Hawie.

Referring to claim 10, Rudd and Roberts do not disclose the second pipe section is inserted into a flush mount fishing rod holder. Hawie does disclose the second pipe – at 11, has an outer diameter enabling an insertion thereof into a flush mount fishing rod holder – at 17 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Rudd or Roberts and add the second pipe section mounted in a flush mount rod holder of Hawie, so as to allow for the rod to be secured proximate the water.

Referring to claim 11, Rudd as modified by Hawie and Roberts as modified by Hawie further disclose the second pipe section – at 11 of Hawie, has a plurality of notches – at 15, formed therein for engaging into an alignment pin – at 16 in the flush mount rod holder – 17 – see for example figures 1-4 of Hawie.

Response to Arguments

4. Both the Roberts US 4827654 and the Rudd reference US 5460306 disclose the first and second pipe sections are fixedly connected – see items 12 and 14 in figure 1 of Roberts and see items 11 and 12 or items 11 and 13 of Rudd in figures 1-3. The pipe sections 11 and 12 of Rudd are fixedly connected as seen in column 2 lines 63-67 and column 3 lines 1-8 when the hasp – at 20-21 is locked into position.

Further, applicant argues that if the two pipe sections are separate then they are not fixedly attached, however in claims 4 and 6 applicant claims that the two pipe sections of the

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fixedly connected device are adhesively bonded and therefore are two separate pieces attached to one another. Therefore, the examiner contends that separate pieces can be fixedly connected.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

c/14/04